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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|-------------------------|------------------|
| 10/723,487 | 11/26/2003 | Scott A. McCuskey | SAMC 63916 | 9528 |
| 7590 | 11/04/2005 | | EXAMINER | |
| Tara L. Pfaeffle Pietragallo, Bosick & Gordon One Oxford Centre, 38th Floor 301 Grant Street Pittsburgh, PA 15219 | | | BAXTER, GWENDOLYN WRENN | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3632 | |
| DATE MAILED: 11/04/2005 | | | | |

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|------------------------|---------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/723,487 | MCCUSKEY ET AL. |
| | Examiner | Art Unit |
| | Gwendolyn Baxter | 3632 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 September 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,3,4,7-18,35,36,38-41,44 and 45 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1,3,4,7-18,35,36,38-41,44 and 45 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

10/28/05

| | |
|--|--|
| <ol style="list-style-type: none"> <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____. | <ol style="list-style-type: none"> <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) <input type="checkbox"/> Other: _____. |
|--|--|

This is the third Office of application serial number 10/723,487, Weapon Caddy, filed November 26, 2003.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 22, 2005 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3, 4, 11, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 4,140,296 to Guillen. The present invention reads on Guillen as follows: Guillen teaches a caddy comprising a mounting bracket (20), a base

member (30), and a cradle member (45). The mounting bracket is structured and arranged for mounting on a support structure (11). The base member is slidably mounted on the mounting bracket. A coupling (40) is between the mounting bracket and the base member, which permits both sliding and rotating movement between the mounting bracket and the base member at a single point of connection between the mounting bracket and base member. The cradle member is mounted on the base member and structured and arranged for supporting the weapon. The base member is slideable in a substantially horizontal direction when the mounting bracket is mounted on the support structure. The coupling comprises a bolt (41b) extending through the mounting bracket (20) and a slot (26) in the base member in which the bolt is slideable, wherein the base member is pivotable around the bolt. The cradle member is generally U-shaped. A mechanical fastener (16) is used for mounting the mounting bracket onto the support structure.

Claims 1 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,778,589 to Teague. The present invention reads on Teague as follows: Teague teaches a caddy comprising a mounting bracket (20), a base member (30), and a cradle member (45). The mounting bracket is structured and arranged for mounting on a support structure (11). The base member is slidably mounted on the mounting bracket. A coupling (40) is between the mounting bracket and the base member, which permits both sliding and rotating movement between the mounting bracket and the base member at a single point of connection between the mounting bracket and base member. The cradle member is mounted on the base member and structured and

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arranged for supporting the weapon. The base member is rotatable around a substantially vertical axis when the mounting bracket is mounted on the support structure. See below.

U.S. Patent

Jul. 14, 1998

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5,778,589

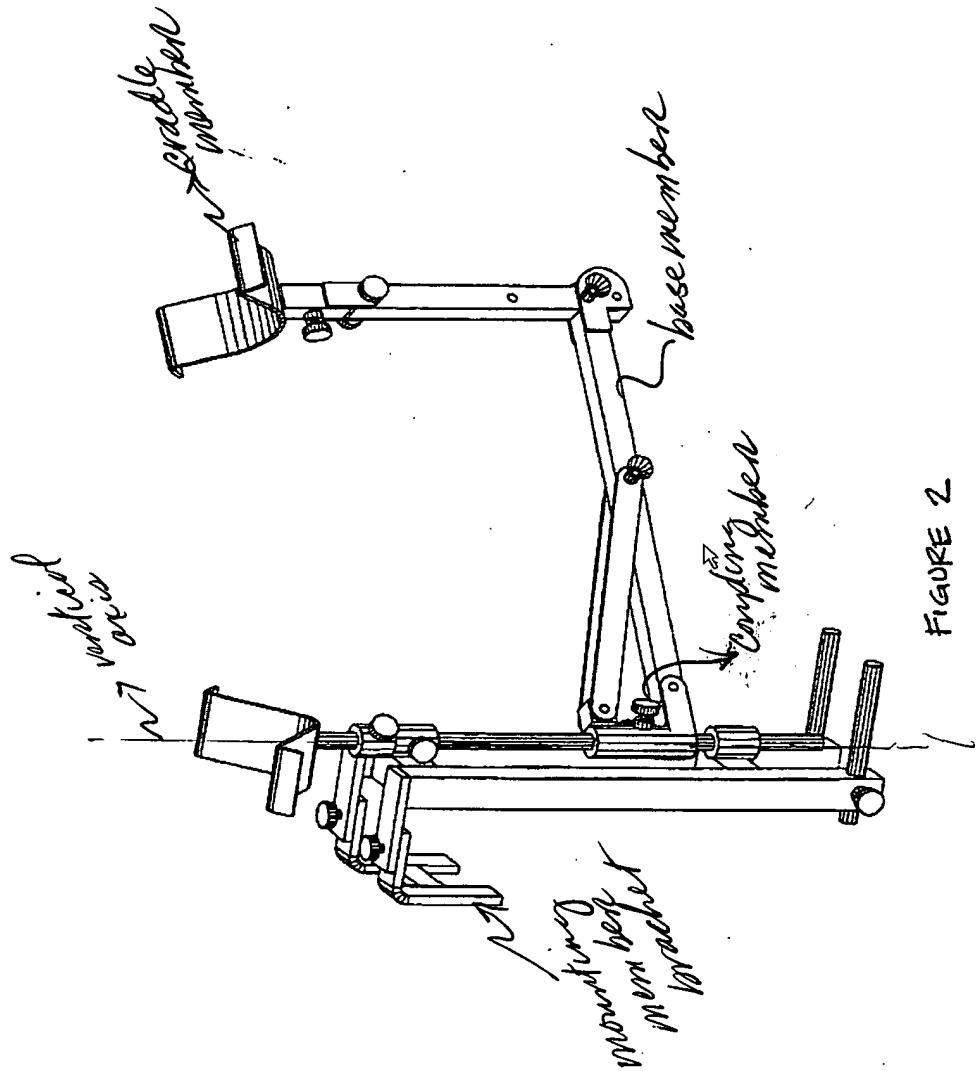


FIGURE 2

Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 879,052 to Jeranek. The present invention reads on Jeranek as follows: Jeranek teaches a caddy comprising a mounting bracket (1, 3), a base member (4), and a cradle member (9-13). The mounting bracket is structured and arranged for mounting on a support structure (11). The base member is slidably mounted on the mounting bracket. A coupling (9-13) is between the mounting bracket and the base member, which permits both sliding and rotating movement between the mounting bracket and the base member at a single point of connection between the mounting bracket and base member. The cradle member is mounted on the base member and structured and arranged for supporting the weapon.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jeranek in view of U.S. Patent No. 167,169 to Hare. Jeranek teaches the limitations of the base claim, excluding the cradle member is slidably mounted on the base member.

Hare teaches a rifle rest for supporting a weapon. The cradle member is slidably mounted on the base member. The cradle member is hollow section and slides over a substantially vertical section of the base member. It would have been obvious to one

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having ordinary skill in the art at the time the invention was made to have modified the cradle member as taught by Jeranek to have incorporated the vertical adjustability as taught by Hare for the purpose of adjusting the height of the gun to be set upon the cradle member.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Teague in view of U.S. Patent No. 4,575,964 to Griffen. Teague teaches the limitations of the base claim, excluding the cradle member having an elastic liner.

Griffen teaches a rifle rest for supporting a weapon. The rest comprises a telescoping cradle member (30), wherein the cradle member includes an elastic liner (41). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the cradle member as taught by Peterson to have incorporated the elastic liner as taught by Flaherty for the purpose of absorbing shock which frictionally engages the sides of the weapon which is placed in the cradle.

Claims 13-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Teague in view of U.S. Patent No. 2,403,654 to Gerdes. Teague teaches the limitations of the base claim, excluding the strap on the cradle member is elastic and detachable.

Gerdes teaches an armrest. The rest comprises a cradle member (25, 26), wherein the cradle member includes a detachable strap (31). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the cradle member as taught by Teague to have incorporated a strap as taught by Gerdes for the purpose of securing an object within the cradle member.

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Regarding claim 15, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the strap from an elastic material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Regarding claim 16, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the strap comprising additional holes, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jeranek in view of U.S. Patent No. 5,044,590 to Carafice. Jeranek teaches a caddy comprising a mounting bracket (1, 3), a base member (4), and a cradle member (9-13). The mounting bracket is structured and arranged for mounting on a support structure (11). The base member is slidably mounted on the mounting bracket. A coupling (9-13) is between the mounting bracket and the base member, which permits both sliding and rotating movement between the mounting bracket and the base member at a single point of connection between the mounting bracket and base member. The cradle member is mounted on the base member and structured and arranged for supporting the weapon. However, Jeranek fails to teach the support structure comprising a tree stand

Carafice teaches a caddy having two modes of mounting. The first mounting is stake (29) and the second mounting is a clamp (13, 14, 50) for mounting the caddy on a

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horizontal support or tree stand (2). It would have been obvious to one having ordinary skill in the art at the time the invention is made to have modified the caddy as taught by Jeranek to have incorporate an additional mounting or the clamp as taught by Carafice for the purpose of mounting the caddy on a tree stand.

Claims 35, 36, 38, 39, 41, 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,637,708 to Peterson. The present invention reads on Peterson as follows: Peterson teaches a hunt apparatus comprising a support structure (38) and a caddy (16) for supporting a weapon mounted on the support structure. The caddy comprises a mounting bracket (38), a base member (122), a coupling (100) and a cradle member (116-120, 50, 60). The mounting bracket is structured and arranged for mounting on a support structure (14). The base member is slidably mounted on the mounting bracket. A coupling (100) is between the mounting bracket and the base member, which permits both sliding and rotating movement between the mounting bracket and the base member. The cradle member is mounted on the base member and structured and arranged for supporting the weapon. The support structure is a tree stand. A mechanical fastener (40) is used for mounting the mounting bracket onto the support structure. The mechanical fastener comprises a bolt (72) extending through a hole in the mounting bracket and a nut (not numbered) threaded on the bolt. The mounting bracket is rotatably mounted on the support structure. The cradle member is slidably mounted on the base member. A strap is on the cradle member for securing the weapon. However, Peterson fails to teach an additional caddy and elastic strap. It would have been obvious to one having ordinary

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skill in the art at the time the invention was made to have made an additional craddy, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. Additionally, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the strap from an elastic material, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice.

Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson in view of U.S. Patent No. 4,150,733 to Plummer. Peterson teaches the limitations of the base claim, excluding the mounting bracket being welded on the support structure.

Plummer teaches the use of welding or screws for securing components. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the mounting bracket as taught by Peterson to have incorporated welding as taught by Plummer for the purpose of joining members together.

Response to Arguments

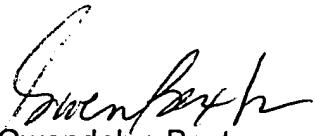
Applicant's arguments with respect to claims have been considered but are moot in view of the new grounds of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is 571-272-6814. The examiner can normally be reached on Monday-Wednesday, 8:30am - 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on 571-272-6788. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gwendolyn Baxter
Primary Examiner
Art Unit 3632

October 28, 2005